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if from the whole will it appears that the survivors were intended to take. *Armstrong v. Eldridge*, 3 Bro. Ch. 215.

**WILLS — REVOCATION FOUNDED ON MISTAKE.** — The testatrix destroyed her will on the supposition that she had made another valid will, but which was not, in fact, duly executed. The consent of the next of kin, who were all *sui juris*, having been obtained, application was made for probate of a copy of the destroyed will. *Held*, that the copy is entitled to probate. *Estate of Irvin*, 25 T. L. R. 41 (Eng., Prob. D., Nov. 2, 1908). See NOTES, p. 374.

**WITNESSES — COMPELLING TESTIMONY — VEXATIOUS SERVICE OF SUBPŒNAS UPON MINISTERS OF THE CROWN.** — Subpœnas were served on the Prime Minister and the Home Secretary, who made affidavits that they were unable to give any relevant testimony. The service had been obtained largely for vexatious purposes. *Held*, that the subpœnas should be set aside. *Rex v. Baines*, 25 T. L. R. 79 (Eng., K. B., Nov. 18, 1908). See NOTES, p. 376.

## BOOKS AND PERIODICALS.

### I. LEADING LEGAL ARTICLES.

- BASIS OF LAW, THE.** *John Mahon.* Discussing expediency as the basis of law. 42 Am. L. Rev. 872.
- CANCELLATION OF DEPOSITORY BONDS, THE.** *Luther E. Mackall.* Arguing against the power of surety companies to cancel such bonds. 42 Am. L. Rev. 820.
- CASE FOR LIMITATION OF ARMAMENTS, THE.** *Benjamin F. Trueblood.* Showing what advances have been made toward such limitation and pointing out the great expense of maintaining armaments. 2 Am. J. of Int. L. 758.
- CHANGE OF VENUE FOR CONVENIENCE OF WITNESSES — NECESSARY PROOF.** *Anon.* A summary of the law in New York. 15 Bench & Bar 94.
- CONSTITUTIONAL POWER TO PARDON CONTEMPTS OF COURT.** *Thomas J. Johnston.* Arguing that the executive never has such power. 12 L. N. (Northport) 185.
- CONSTITUTIONAL RIGHT TO A TRIAL BY A JURY OF THE VICINAGE, THE.** *Henry G. Connor.* 57 U. P. L. Rev. 197.
- DATE OF SEPARATION OF ECCLESIASTICAL AND LAY JURISDICTION IN ENGLAND, THE.** *Walter Lichtenstein.* Showing that the separation dates from the time of Stephen. 3 Ill. L. Rev. 347.
- EVOLUTION OF INTERNATIONAL LAW, THE.** *John W. Foster.* 18 Yale L. J. 149.
- FICTITIOUS PAYEES IN FORGED CHEQUES OR BILLS.** *Louis M. Greeley.* 3 Ill. L. Rev. 331.
- HISTORICAL DEVELOPMENT OF THE CONTRACT THEORY IN THE DARTMOUTH COLLEGE CASE.** *R. N. Denham, Jr.* 7 Mich. L. Rev. 201.
- INFLUENCE OF FRENCH LAW IN AMERICA, THE.** *Roscoe Pound.* 3 Ill. L. Rev. 354.
- INQUIRY INTO THE POWER OF CONGRESS TO REGULATE THE INTRA-STATE BUSINESS OF INTERSTATE RAILROADS, AN.** *David W. Fairleigh.* 9 Colum. L. Rev. 38.
- JURISDICTION OF THE ADMIRALTY IN CASES OF TORT.** *Henry Billings Brown.* Containing a history of the development of the law on the question and a statement of the present law. 9 Colum. L. Rev. 1.
- JURISTIC PERSON, THE.** — I, II. *George F. Deiser.* A philosophical treatment of the nature of a corporation. 57 U. P. L. Rev. 131, 216.
- LEGISLATIVE REFERENCE WORK AND THE LAW LIBRARY.** *C. B. Lester.* Emphasizing the need of methods which will make the finding of data on a subject more easy. 41 Chi. Leg. N. 183.
- MAY PROHIBITION LAWS AUTHORIZE THE TAKING OF PROPERTY WITHOUT COMPENSATION?** *O. H. Myrick.* Maintaining that compensation is necessary. 68 Cent. L. J. 2.
- NEW PENAL CODE OF SIAM, THE.** *Tokichi Masao.* 18 Yale L. J. 85.
- NOTICE TO, OR KNOWLEDGE OF, AN AGENT.** *Floyd R. Mechem.* An exhaustive treatment of the subject. 7 Mich. L. Rev. 113.
- OBLIGATORY ARBITRATION AND THE HAGUE CONFERENCES.** *Wm. I. Hull.* Explaining the different forms of arbitration treaties discussed at The Hague Conferences. 2 Am. J. of Int. L. 731.

- PROPOSED COURT OF ARBITRAL JUSTICE, THE. *James Brown Scott*. 2 Am. J. of Int. L. 772.
- RIGHT OF STOCKHOLDERS TO NEW STOCK, THE. *Frederick Dwight*. Arguing that the doctrine sustaining the right has been extended too far. 18 Yale L. J. 101.
- RIGHTS OF A TRAVELER TO USE HERE ARTICLES MADE AND PURCHASED ABROAD BUT PATENTED HERE. *Dwight B. Cheever*. 7 Mich. L. Rev. 226.
- SOME ASPECTS OF BUSINESS BY TELEGRAM. *W. F. Chipman*. Dealing with creation of contract relations by telegram. 28 Can. L. T. & Rev. 817.
- SOME HISTORICAL MATTER CONCERNING LITERARY PROPERTY. *Edward S. Rogers*. 7 Mich. L. Rev. 101.

## II. BOOK REVIEWS.

HISTORY OF THE ROMAN-DUTCH LAW. By J. W. Wessels. Grahamstown, Cape Colony: African Book Company, Limited. 1908. pp. xv, 791. 8vo.

The prevalence of Roman law in South Africa furnishes a curious and striking illustration of the far-reaching influence of ancient Rome. The law of Holland, then in large measure Roman, was carried to the Cape of Good Hope by the colonists of the seventeenth century and established itself so firmly that it continued in force after the English conquest and was in course of time officially adopted in Natal, the Transvaal, the Orange Free State, and Southern Rhodesia. As Holland had no code in the period before the loss of its African colonies, the law had for the most part to be sought in the writings of the great Dutch jurists of the seventeenth and eighteenth centuries; but in case of doubt the *Corpus Juris Civilis* was the ultimate resort, and as recently as 1901 an appeal from Natal to the Judicial Committee of the Privy Council involved the interpretation of a passage in the *Digest*. But while a certain amount of continuity is thus preserved, the Roman-Dutch law is in an isolated position. It is no longer a living force in Holland, where the new code came into force a century ago, so that it lacks such external support as the civil law in Quebec receives from France, and the forces of legal development inevitably favor English law. Not only has the English law of evidence been introduced, but the influence of English decisions, imperial legislation, and barristers with an English training, works strongly against the Dutch tradition. In many respects this state of affairs has tended to produce confusion, and Judge Wessels complains of "the heterogeneous mass of legal systems" now prevalent in South Africa and pleads for a more scientific adjustment of conflicting principles.

A body of law fed from such streams has naturally an interesting history, some knowledge of which would seem essential to a thorough understanding of present conditions, and Judge Wessels tells us that it was the general ignorance of such matters on the part of practitioners that led him to write the articles for the *South African Law Journal* which have grown into the present volume. The work falls into two parts, one dealing with the general development of Roman-Dutch law, the other treating historically the more significant topics. Such a book cannot, especially for the earlier period, be expected to rest in any considerable degree upon original investigation, and while some use has been made of modern manuals such as those of Brunner and Schröder, too much reliance is placed upon older Dutch and Belgian writers, so that many of the statements respecting the law of the Middle Ages are open to serious question. The treatment is often scrappy and does not always bring out sufficiently the most significant points. The modern portions are better, and the task as a whole was worth attempting, even if it could not be carried out with the full equipment of the scientific student of historical jurisprudence. The book should teach the lawyers of South Africa some valuable lessons concerning the long and honorable history of their legal system. C. H. H.

THE LAWS OF WAR ON LAND (WRITTEN AND UNWRITTEN). By Thomas Erskine Holland. Oxford: At the Clarendon Press. 1908. pp. viii, 149. 8vo.

The principal written laws affecting the conduct of war on land may be found in the proceedings of international conferences at St. Petersburg in 1868, at